

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Appropriate Framework for Broadband)	CC Docket No. 02-33
Access to the Internet over Wireline Facilities)	
)	
Universal Service Obligations of Broadband)	
Providers)	
)	
Computer III Further Remand Proceedings:)	CC Docket Nos. 95-20, 98-10
Bell Operating Company Provision of)	
Enhanced Services; 1998 Biennial Regulatory)	
Review – Review of Computer III and ONA)	
Safeguards and Requirements)	

COMMENTS OF GVNW CONSULTING, INC.

GVNW Consulting, Inc. respectfully submits these comments in response to the Commission's Notice of Proposed Rulemaking (NPRM) in the above-referenced dockets. GVNW Consulting is a management-consulting firm that provides a wide variety of consulting services, including regulatory support on issues such as universal service, advanced services, and access charge reform for communications carriers in rural America.

I. INTRODUCTION

In this NPRM proceeding, the Commission notes at paragraph 1 that it is undertaking a thorough examination of the appropriate legal and policy framework for broadband access to the Internet over domestic wireline facilities. The Commission further states in paragraph 1 that:

“It is widely believed that ubiquitous broadband deployment will bring valuable new services to consumers, stimulate economic activity, improve national productivity, and advance economic opportunity for the American public. The promise of broadband generally, and the proliferation of broadband Internet access services specifically, are fostering the creation, adoption and use of multimedia applications that can meet consumers’ broad communications, entertainment, information, and commercial needs and desires. These factors demand that the Commission develop general principles and policy goals that form the foundation of our broadband policymaking.” (NPRM, paragraph 1)

As we discuss in the following pages, we believe this policy review must recognize the differences facing our nations’ rural carriers that are attempting to provide broadband access to the Internet over domestic wireline facilities. By recognizing these key differences and then developing a separate set of policy and procedures, the Commission will be able to advance the goals of the Act with respect to broadband access for the majority of rural customers.

II. BACKGROUND

Dealing with technological changes to regulatory paradigms is nothing new to the Commission. This proceeding is one of several concurrent proceedings, in which the Commission is focusing on the regulatory treatment under Title II of broadband services and the facilities over which such services are provided. A thorough and considered debate is needed as we continue in the evolution from a one-wire environment to a matrix of delivery options for the end-user customer. Our review of the current state of affairs indicates that convergence and new technology allows voice, channelized video programming, video on demand, two way video, and information services to be offered over the same ATS platform.

For all Americans, **including those living in rural areas**, broadband services are starting to become, and will continue to be, increasingly important in both work and home life. Much of this debate has focused on issues within the highly populated urban markets, which is understandable given that the majority of the population resides in these areas. We offer for consideration that some of the policy decisions appropriate in dense urban markets will not translate to rural regions. To this end, we will focus these comments on the impact of the regulatory treatment of broadband services for rural carriers in rural markets.

III. THE “RURAL IS DIFFERENT” CONCLUSION THAT IS THE CORNERSTONE OF THE COMMISSION’S RURAL TASK FORCE DECISION IS APPLICABLE TO INCUMBENT LEC-PROVIDED BROADBAND SERVICES AS WELL

In refining its policies concerning DSL, the Commission should recognize the unique nature of rural markets

In this proceeding, the Commission proposes to classify wireline broadband Internet access as an information service.

In the NPRM, the Commission asks at paragraph 63 how the dual state-federal ratemaking framework might be affected by this change in classification. For example, if wireline broadband internet access service is an information service, how should joint and common costs of facilities to provide both DSL and telecommunications services be allocated under Part 64.901 of the Commission’s rules? Should the Commission modify the current cost allocation rules, and if so, how should this be accomplished?

We offer the following recommendation in response to this request. The Commission would be well advised to consider an important fact placed in the record in

CC Docket No. 96-45 as it refines its policy for these emerging broadband services.

Simply stated, the rural broadband market is different.

In any market, the provision of broadband services will require enormous investment in order to realize the promise and potential of the technology. Small, rural carriers face significant challenge with regard to deploying advanced services to customers. The mitigating factors include, but are not limited to, higher deployment costs, evolving network standards, and continuing regulatory uncertainty. If the Commission desires continued rural broadband deployment, it will be necessary for the Commission to apply a different set of parameters to the rural issues related to broadband services.

The Rural Task Force (RTF) via its White Paper 2, entitled The Rural Difference, released in January 2000, has placed the nature and scope of these significant differences within the subset of rural carrier markets in the public record. The White Paper offered a very detailed empirical analysis of the major rural carrier differences. In brief, the analysis led the RTF to reach nine conclusions with respect to the rural difference issue:

- 1) Rural carriers serve more sparsely populated areas;
- 2) There is significant variation in study area sizes and customer bases among rural carriers;
- 3) The isolation of areas served by rural carriers results in numerous operational challenges;
- 4) Compared to non-rural carriers, the customer base of rural carriers generally includes fewer high-volume users, depriving rural carriers of economies of scale;

- 5) Compared to customers of non-rural carriers, customers of rural carriers tend to have a relatively small local calling scope and make proportionately more toll calls;
- 6) Rural carriers frequently have substantially fewer lines per switch than do non-rural carriers, providing fewer customers over which to spread high fixed network costs;
- 7) Total investment in plant per loop is substantially higher for rural carriers than for non-rural carriers;
- 8) Plant specific and operations expenses for rural carriers tend to be substantially higher than for non-rural carriers;
- 9) Customers served by rural carriers have different demographic characteristics from customers in areas served by non-rural carriers.

Several of these differences have a direct impact on the deployment of broadband infrastructure. The regulatory requirements to be imposed by the Commission on rural rate-of-return carriers offering broadband service offerings should be structured to reflect these important differences.

IV. APPROPRIATE REGULATORY REQUIREMENTS

The Commission's current rules provide a proper incentive in rural broadband markets

The Commission currently regards high speed Internet access over DSL service as two services. First, the "content" (access to the Internet backbone and delivery of Internet based services such as web pages and e-mail) and second, the "transport" (the DSL broadband infrastructure between the customer location and the Internet service provider). Content is not regulated, but transport currently is regulated. In the case of

DSL, it is in many cases considered an interstate service, with all DSL plant (electronics and circuit cards) assignable to the interstate jurisdiction. The National Exchange Carrier Association (NECA) has in place a tariff for DSL service and a mechanism for recovery of costs associated with DSL from the NECA pool. Under current rules for NECA members, DSL related to Internet is a special access service that is regulated, and the costs are recoverable from the interstate pool.

These existing rules that are in place provide for rural carriers the much-needed recovery of revenue requirement. Irrespective of a declaration that broadband access to the Internet over domestic wireline facilities is an information service, the current Commission rules related to revenue requirement recovery (Parts 36 and 69) **should be continued for a period of at least five years in rural markets** in order to recognize the nascent status of broadband infrastructure deployment.

What is the impact of these existing rules on broadband deployment?

Why have competitors focused to this point on urban markets and what has been the experience to date in the very rural markets? In some cases, deployment of advanced service capability is not, at present, economically feasible without some source of support mechanism. If the Commission is committed to seeing that advanced services are offered throughout all regions of the country, then some sort of universal service type funding will need to be available for the high-cost areas. As we stated nearly four years ago in our September 14, 1998 comments in the Notice of Inquiry (NOI) in CC Docket No. 98-146:

“We should not assume that there will be someone available to serve the advanced telecommunications needs of all citizens, especially those who live a great distance from the serving wire center. This assumption may not be valid without adequate universal service mechanisms.”

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) echoed a similar theme in their April 22, 2002 reply comments in companion docket CC Docket No. 01-337. At page 5, OPASTCO states:

“Regardless of the outcome of this proceeding, it is critical that small ILECs continue to have the ability to participate in a viable pool which enables them to provide DSL-based service at reasonable rates. Without the cost-sharing and risk-spreading attributes of pools, many small ILECs will be unable to provide advanced services to their rural customers, an outcome that is at odds with both the Commission’s goals and those of the Telecommunications Act of 1996.”

The Commission has the ability to customize policies for rural areas that provide a proper recognition of rural differences

We believe that an approach similar to the Commission’s course of action in the *Computer III* proceeding is applicable to assist the deployment of advanced telecommunications capability in rural America. With *Computer III*, the FCC permitted select carriers to provide enhanced services on an integrated basis, subject to non-structural accounting and interconnection safeguards.

The current regulatory scheme of requiring unbundled resale in some cases creates a strong disincentive, if not deterrent, to any investment in advanced telecommunications capability, at least in the rural markets. Was the intent of Congress to place the entire burden and risk on rural incumbent local exchange carriers? We believe that is not the case. In addition to the rural treatment discussed above, we recommend that companies eligible under Section 251 (f) be exempt from resale and interconnection requirements for advanced telecommunications capability and services for a period of at least 5 years.

What else does the Commission need to do to promote advanced services for rural America?

We are pleased that the Commission is addressing the challenges we face with respect to widespread deployment of advanced telecommunications capability for all Americans. We believe that the deployment of advanced telecommunications capability to rural Americans will require a different set of regulatory parameters.

A whole host of actions may be contemplated by the Commission to assist in the acceleration of the deployment of these desired advanced service offerings. The following additional suggestions are made with the small, rural markets in mind.

Any rules promulgated should be technologically neutral. Any rules should be as general as possible, in order to permit for maximum innovation and deployment with minimal change to the rules. Rules for advanced service deployment should address frameworks, not detailed specifications. The framework of the regulation should permit change over time to account for the evolution in markets, services, and technologies. However, regardless of the advancement in the technology, there will always be the need for the commitment of capital to deploy the necessary infrastructure. In some rural areas, this is not a small investment.

CONCLUSION

We applaud the Commission's continuing focus on bringing the benefits of advanced services to all Americans. We encourage the policy maker to keep in mind that competition, especially in the area of advanced services, will emerge unevenly among geography, services, and customer classes. We continue to believe that the most likely

source of access to advanced services for the majority of rural customers will be the incumbent local exchange carrier. In this regard, we recommend that the Commission be mindful of the very real differences between urban and rural markets. The Commission's recent RTF and MAG orders recognized these important rural differences. In order to best promote affordable advanced telecommunications services to rural Americans, it will be important to recognize these rural differences in the policy development phase for broadband technologies.

Respectfully submitted,

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